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February 19, 2015

Via ECF and Via E-Mail:
oetkennysdchambers@nysd.uscourts.gov
Hon. J. Paul Oetken
United States District Court
Southern District of New York
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street
New York, New York 10007-13112

Re: Mark Shapiro, et al.
Case No.: 12-cv-171 (JPO)
Response to Plaintiff's Related Case Statement filed on February 18, 2015
Our File No.: 14492

Via ECF and Via Facsimile: (212) 805-7927
Hon. Naomi Buchwald, U.S.D.J.
United States District Court
Southern District of New York
Daniel Patrick Moynihan
United States Courthouse – Room 2270
500 Pearl Street
New York, New York 10007

Re: Mark Shapiro v. Daniel Sachs Goldman, et al.
Case No.: 14-cv-10119 (NRB)
Our Clients: National Insurance Crime Bureau and Anthony Tardalo
Response to Plaintiff's Related Case Statement filed on February 18, 2015
Our File No.: 30530

Dear Judge Oetken and Judge Buchwald:

We represent National Insurance Crime Bureau and Anthony Tardalo (hereinafter "NICB" and "Tardalo"). This correspondence is submitted in opposition to plaintiff's recently filed Related Case Statement (Document 49 in the docket of case number 14-cv-10119 (NRB)). NICB and Tardalo respectfully submit that plaintiff's Statement that these cases are related, and his application to transfer the civil case, now presided over by Judge Buchwald, to Judge Oetken, the Judge who presided over the criminal matter, should be denied in its entirety.

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There is a very simple and concise reason why plaintiff's Related Case Statement and application to transfer the civil case to Judge Oetkin should be denied in its entirety. There is a rule in which is part of the local rules for the United States District Courts for the Southern and Eastern Districts of New York which directly addresses the issue. Rule 13 is entitled "Related Cases". Subdivision (a)(2)(c) establishes that plaintiff's application is wholly without merit. In pertinent part, Rule 13 (a)(2)(c) states:

"Criminal cases are not treated as related to civil cases."

NICB and Tardalo respectfully submit that there is nothing more that needs be presented to this Court to demonstrate the clear impropriety of plaintiff's application. Rule 13(a)(1), which is the "General Rule", makes it plain that a determination of relatedness can only involve civil cases, bankruptcy appeals, motions to withdraw a bankruptcy reference, and inspection of whether they are deemed related to one or more civil cases, appeals or motions. Subdivision (a)(2) contains "limitations on the General Rule". Subdivision (c), cited above, is one of those limitations.

For these reasons, it is respectfully submitted that plaintiff's Related Case Statement, and request that the civil case be transferred to Judge Oetken, should be denied in its entirety.

Thank you for your consideration of the above.

Respectfully submitted,

ABRAMS, GORELICK, FRIEDMAN &
JACOBSON, LLP

By: 

Barry Jacobs

BJ:km

Cc: By ECF to All Counsel